

Joint Standing Committee on Insurance and Financial Services

LD 213

An Act To Assist Maine's Infertile Citizens

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARRACHE	ONTP MAJ	
DOUGLASS	OTP-AM MIN	

LD 213, which was carried over from the First Regular Session, proposed to require group health insurance policies, contracts and certificates to include coverage for infertility treatment if pregnancy-related benefits are provided. It would apply to all group policies issued or renewed on or after January 1, 2004.

Committee Amendment "A" (H-629) is the minority report of the committee and proposed to replace the bill. The amendment would require group health insurance policies, contracts and certificates to include coverage for infertility treatment based on the current benefit provided to state employees. Coverage would be required for women between ages 21 and 45, if referred by a primary care provider, for 80% of the charges for infertility diagnosis and treatment up to a maximum lifetime limit of \$20,000. Under the proposed amendment, a religious employer may request an exemption if providing the coverage conflicts with the employer's bona fide religious beliefs and practices.

The proposed amendment would apply to all group policies, contracts and certificates issued or renewed on or after January 1, 2005. It would require group insurers and health maintenance organizations to report claims experience and cost impact of infertility coverage for calendar years 2005, 2006 and 2007 no later than February 15, 2008 and direct the Superintendent of Insurance to compile this information in a report to the Legislature by April 1, 2008. The amendment also proposed to repeal the provision on July 1, 2008. Committee Amendment "A" was not adopted.

LD 428

An Act To Eliminate the Department of Professional and Financial Regulation, Bureau of Insurance Travel Restrictions for Obtaining Health Care

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAFOUNTAIN	ONTP MAJ	
O'NEIL	OTP-AM MIN	

LD 428, which was carried over from the First Regular Session, proposed to provide that a health maintenance organization may furnish health care services through providers that exceed the standard geographic accessibility limits imposed by the Department of Professional and Financial Regulation, Bureau of Insurance by rule for specialty care and hospital services with the exception of hospital services for emergencies and maternity care.

Committee Amendment "A" (S-354) is the minority report of the committee and replaced the bill. The amendment proposed to repeal the changes made to the geographic access standards in the Dirigo Health law, Public Law 2003, chapter 469. The amendment proposed to clarify that the geographic access standards for managed care plans under the Maine Insurance Code and Bureau of Insurance Rule Chapter 850 do not prohibit health insurers and health maintenance organizations from developing health plans that give financial incentives to

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enrollees who elect to use certain designated providers in a health plan's provider network. Committee Amendment "A" was not adopted.

LD 497 **Resolve, To Study the Feasibility and Effectiveness of Providing Consumers with Consumer Reports on Health Care Services** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAFOUNTAIN	ONTP MAJ	
O'NEIL	OTP-AM MIN	

LD 497, which was carried over from the First Regular Session, proposed to establish a commission to study providing consumers with information on the cost and quality of health care services in order to reduce the cost of health insurance by encouraging consumers to be better purchasers of health care services.

Committee Amendment "A" (S-357) is the minority report of the committee. The amendment proposed to modify the duties of the Commission to Study Reports for Consumers of Health Care Services to include recommendations for public access to health insurance rate comparisons. Committee Amendment "A" was not adopted.

LD 667 **An Act To Amend the Maine Insurance Code** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAFOUNTAIN	ONTP	

LD 667, which was carried over from the First Regular Session, proposed to require the Superintendent of Insurance to expedite the review and approval of rate filings. It also proposed to expand the grounds for which a contract of property insurance may be cancelled prior to the expiration of the policy to include the following:

1. The commission of a fraudulent insurance act;
2. The failure by the applicant or the insured to disclose a negligent act or material facts that would alter the terms of the policy;
3. The discovery that the insured's property is unoccupied and custodial care is not being maintained;
4. The presence of a trampoline on the premises if the insured is notified that the policy will be cancelled if the trampoline is not removed;
5. The presence of a swimming pool on the insured property that is not fenced in if, after notification, the noncompliance continues;
6. A claims history that includes 4 losses within 5 years, unless those losses include a catastrophic loss event;
7. A loss occasioned by a dog bite, unless, after notice of cancellation, the insured removes the dog; or

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8. Failure to correct in 90 days conditions that pose imminent hazards.

See related bill LD 1853, which was enacted as Public Law 2003, chapter 671 and incorporated several of LD 667's provisions.

LD 1087	An Act To Require All Health Insurers To Cover the Costs of Hearing Aids	DIED BETWEEN BODIES
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS	OTP-AM A	
LAVERRIERE-BOUC	ONTP B	
	OTP-AM C	

LD 1087, which was carried over from the First Regular Session, proposed to require health insurance policies and contracts to provide coverage for the purchase of a hearing aid from a licensed audiologist or hearing aid dealer for a person whose hearing loss has been documented by a physician or licensed audiologist.

Committee Amendment "A" (S-358) is the minority report and replaced the bill. It proposed to require health insurance policies, contracts and certificates to provide coverage for hearing aids for persons 21 years of age and under. The provisions would apply to all policies, contracts and certificates issued or renewed on or after January 1, 2005. Committee Amendment "A" was not adopted and LD 1087 was recommitted to the Committee on Insurance and Financial Services.

Committee Amendment "B" (S-394) replaced the bill and is the majority report of the committee. It proposed to require health insurance policies, contracts and certificates to provide coverage for hearing aids for persons 18 years of age and under. The amendment would allow insurance policies to limit coverage to \$1,400 per hearing aid every 36 months. The provisions would apply to all policies, contracts and certificates issued or renewed on or after January 1, 2005.

The amendment also added an appropriations section to cover additional costs for the state employee health insurance program and added language authorizing additional expenditures if costs of providing coverage of hearing aids to state employees and their dependents exceed legislative allocations. Committee Amendment "B" was adopted in the Senate, but was not adopted in the House.

Committee Amendment "C" (S-395) replaced the bill and is the minority report of the committee. It proposed to establish a mandated offer for coverage for hearing aids under individual and group health insurance policies. The amendment would allow insurance policies to limit coverage to \$1,400 per hearing aid every 36 months. The provisions would apply to all policies, contracts and certificates issued or renewed on or after January 1, 2005. Committee Amendment "C" was not adopted.

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LD 1181 **An Act To Provide Fair Hearings in Health Insurance Rate Proceedings** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT KANE	ONTP	

LD 1181, which was carried over from the First Regular Session, proposed to require that the Bureau of Insurance hold a hearing before approving any proposed change in individual and group health insurance rates that exceed the Consumer Price Index by 100%. The bill also would require that the hearing be held before an impartial administrative hearing officer who is not employed by the Bureau of Insurance and that actuarial staff at the Bureau of Insurance prepare a report for use in the hearing.

LD 1181 also proposed to change the standard of review from whether the rates are excessive to whether the rates are unreasonable relative to the benefits and coverage offered.

LD 1190 **An Act To Create the Comprehensive Health Insurance Risk Pool Association** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAFOUNTAIN	ONTP MAJ OTP-AM MIN	

LD 1190, which was carried over from the First Regular Session, proposed to create the Comprehensive Health Insurance Risk Pool Association to provide coverage for high-risk individuals. The bill would fund the high-risk pool through an assessment on all health insurers. The bill proposed to require the State to submit an application to the Federal Government for federal assistance to create a high-risk pool.

LD 1190 would also remove the guaranteed issuance requirement for individual health plans effective October 1, 2004.

Committee Amendment "A" (S-384) is the minority report of the committee. The proposed amendment retains the Comprehensive Health Insurance Risk Pool Association to provide coverage for high-risk individuals and spread the cost of that coverage among all health insurance carriers doing business in the State. The amendment proposed to partially fund the high-risk pool by requiring health insurance carriers to pay an assessment based on the number of persons covered by that carrier. An individual insured through the high-risk pool may be charged a premium up to 150% of the average premium rates charged by carriers for similar health insurance plans.

The amendment would repeal the guaranteed issuance requirement in the individual health insurance market. The amendment also proposed to broaden the community rating laws to allow carriers to vary premiums on the basis of age within a maximum rate differential on a ratio of 4 to 1 and on the basis of health status and tobacco use within

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a maximum rate differential on a ratio of 1.5 to 1. The provisions relating to guaranteed issuance and community rating take effect February 1, 2005. Committee Amendment "A" was not adopted.

LD 1239

An Act Concerning Universal Health Insurance

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'NEIL LAFOUNTAIN	ONTP	

LD 1239, which was carried over from the First Regular Session, proposed to establish the Maine Universal Health Care Plan and the Maine Universal Health Care Agency, as an independent agency, to administer the plan. Under the proposed plan, enrollees are provided health care coverage after the policy limits of their primary health care policy have been reached. Coverage would be contingent upon the enrollee's having secured coverage for primary and preventive care either individually or through the enrollee's employer. The primary health care policy must be approved by the Bureau of Insurance. The bill proposed to establish a 5% payroll tax on wages and earnings, including self-employed earnings, and dedicate that tax revenue to the Maine Universal Health Care Fund.

LD 1239 also proposed to establish a new nonprofit hospital and medical service organization to compete with other carriers in Maine's health insurance market. The bill would require that the organization be organized in accordance with the Maine Revised Statutes, Title 24.

LD 1353

An Act To Ensure Women's Health Care Coverage for All Maine Women

**PUBLIC 517
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RICHARDSON J EDMONDS	OTP-AM	H-648

LD 1353, which was carried over from the First Regular Session, proposed to ensure that Maine's women's health care coverage insurance mandates provide coverage to women living in Maine who are covered by an insurance certificate of coverage issued by an insurance carrier located in another state. Part A makes these changes in the section of the insurance code regulating nonprofit hospital and medical service organizations. Part B makes these changes in the section of the insurance code regulating individual health insurance policies. Part C makes these changes in the section of the insurance code regulating group health insurance policies. Part D makes these changes in the section of the insurance code regulating health maintenance organizations in Maine.

Committee Amendment "A" (H-648) replaced the bill. Part A proposed to extend the application of certain mandated health insurance benefits to certificates providing coverage to Maine residents that are issued by an out-of-state group health plan. These mandated benefits are coverage for newborns from the moment of birth, coverage for screening Pap tests, coverage for a self-referred annual gynecological exam and coverage for diabetic equipment and supplies. Part A would apply to all policies, contracts and certificates issued or renewed on or after July 1, 2004.

Part B of the amendment proposed to clarify the application of currently mandated benefits to certificates.

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Enacted Law Summary

Public Law 2003, chapter 517 extends the application of certain mandated health insurance benefits to Maine residents covered by certificates that are issued by an out-of-state group health plan. These mandated benefits are coverage for newborns from the moment of birth, coverage for screening Pap tests, coverage for a self-referred annual gynecological exam and coverage for diabetic equipment and supplies. The law applies to all policies, contracts and certificates issued or renewed on or after July 1, 2004.

Public Law 2003, chapter 517 also clarifies the application of currently mandated benefits to certificates.

Public Law 2003, chapter 517 was enacted as an emergency measure effective February 19, 2004.

LD 1601

An Act To Authorize the Superintendent of Insurance To Establish a Fair Access to Insurance Requirements Plan

ONTP

Sponsor(s)
MAYO
O'NEIL

Committee Report
ONTP

Amendments Adopted

LD 1601, which was carried over from the First Regular Session, proposed to authorize the Superintendent of Insurance to establish a Fair Access to Insurance Requirements Plan, or FAIR Plan, under certain circumstances, if the superintendent determines, after a public hearing, that in all or any part of the State residential property insurance is not reasonably available in the voluntary market to a substantial number of insurable risks. The FAIR Plan would be developed and administered by the FAIR Plan Association, a nonprofit association appointed by the superintendent that includes members from the insurance industry and the public. The FAIR Plan Association would develop and administer a program for participation by all licensed insurers writing residential property insurance in this State that would make residential property insurance available to applicants in underserved areas whose property is insurable in accordance with reasonable underwriting standards but who, after diligent efforts, are unable to procure such insurance through the voluntary market, as evidenced by 2 declinations from insurers actually writing residential property insurance in this State.

See related bill, LD 1853, which was enacted as Public Law 2003, chapter 671 and included a provision to authorize the Superintendent of Insurance to establish a mandatory market assistance program for residential property insurance..

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LD 1638

**An Act To Amend the Maine Consumer Credit Code Regarding
Balloon Payments**

**PUBLIC 543
EMERGENCY**

Sponsor(s)
LAFOUNTAIN

Committee Report
OTP-AM

Amendments Adopted
H-706 O'NEIL
S-378

LD 1638 proposed to clarify that a motor vehicle lease or loan is not subject to the minimum 48-month rule for balloon payments.

Committee Amendment "A" (S-378) replaced the bill. The amendment proposed to clarify that a motor vehicle lease or loan is not subject to the 4-year minimum term for consumer credit transactions with balloon payments if the lease or loan gives consumers the right to refinance the final payment or transfer the motor vehicle back to the creditor in lieu of the final payment.

The amendment also added an emergency preamble and emergency clause.

House Amendment "A" to Committee Amendment "A" (H-706) proposed to clarify the ability of a creditor to assess reasonable charges against a consumer when a motor vehicle is returned to the creditor in lieu of a final payment on a consumer credit transaction.

Enacted Law Summary

Public Law 2003, chapter 543 clarifies that a motor vehicle lease or loan is not subject to the 4-year minimum term for consumer credit transactions with balloon payments if the lease or loan gives consumers the right to refinance the final payment or transfer the motor vehicle back to the creditor in lieu of the final payment.

Public Law 2003, chapter 543 was enacted as an emergency measure effective March 10, 2004.

LD 1665

An Act To Require Owners and Operators of Snowmobiles and All-terrain Vehicles To Carry Liability Insurance

ONTP

Sponsor(s)
COLLINS
DAGGETT

Committee Report
ONTP

Amendments Adopted

LD 1665 proposed to require an owner or operator of a snowmobile or an all-terrain vehicle to carry liability insurance in an amount equal to the amount required for an owner or operator of a motor vehicle.

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LD 1678 **An Act To Guarantee That Consumers Receive Notification of Insurance Policy Cancellation** **ONTP**

<u>Sponsor(s)</u> HALL		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1678 proposed to require all insurance companies to send cancellation notices by certified mail, return receipt requested for all lines of insurance, except workers' compensation.

LD 1698 **An Act To Join the Interstate Insurance Product Regulation Compact** **PUBLIC 680**

<u>Sponsor(s)</u> LAFOUNTAIN O'NEIL		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-389 S-565 CATHCART
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LD 1698 proposed to establish the Interstate Insurance Product Regulation Compact and the Interstate Product Regulation Commission to facilitate the regulation of individual and group annuity, life, disability income and long-term care insurance products.

Committee Amendment "A" (S-389) proposed to clarify an inconsistency in the bill relating to the legal status of the proposed Interstate Insurance Product Regulation Compact Commission and add a section appropriating funds to cover any expenses of legislators who may serve on an advisory committee to the Interstate Product Regulation Commission.

Senate Amendment "A" to Committee Amendment "A" (S-565) removed the appropriations section.

Enacted Law Summary

Public Law 2003, chapter 680 authorizes the State of Maine's membership in the Multi-state Insurance Product Regulation Compact. The law establishes the Compact to facilitate the regulation of individual and group annuity, life, disability income and long-term care insurance products. Under the Compact, the compacting states will establish a joint public agency, the Interstate Insurance Product Regulation Commission, to develop uniform standards for insurance products and to provide a single-point entry for filing of insurance products and rates.

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LD 1717

An Act To Clarify Membership on Boards of Directors for Maine Financial Institutions

**PUBLIC 528
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MAYO PINGREE	OTP-AM	S-376

LD 1717 proposed to make requirements for membership on boards of directors of Maine financial institutions consistent with membership requirements in the Maine Business Corporation Act.

Committee Amendment "A" (S-376) replaced the substantive provisions of the bill but retained the emergency preamble and emergency clause. The amendment proposed to remove the requirement that a member of the board of directors of a financial institution be a resident of the financial institution's geographic area, making the law consistent with requirements for other business entities under the Maine Business Corporation Act. The amendment also proposed to clarify that boards of financial institutions must be managed and operated as permitted under chapter 8 of the Maine Business Corporation Act and make other technical changes.

Enacted Law Summary

Public Law 2003, chapter 528 makes requirements for membership on boards of directors of Maine financial institutions consistent with membership requirements in the Maine Business Corporation Act. The law removes the requirement that a member of the board of directors of a financial institution be a resident of the financial institution's geographic area. The law also clarifies that boards of financial institutions must be managed and operated as permitted under chapter 8 of the Maine Business Corporation Act.

Public Law 2003, chapter 528 was enacted as an emergency measure effective March 3, 2004.

LD 1793

An Act To Amend the Law Relating to Insurance Contracts

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'NEIL MAYO	ONTP MAJ OTP-AM MIN	

LD 1793 proposed to include terrorism as a noncovered peril under the State's standard fire insurance policy laws.

Committee Amendment "A" (H-694) is the minority report of the committee. The amendment proposed to clarify that the exclusion for terrorism applies only to commercial fire insurance policies. It would also limit the exclusion to acts of international terrorism as defined under federal law. Committee Amendment "A" was not adopted.

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LD 1802

**An Act To Permit the Photocopying of Driver's Licenses in
Financial Transactions**

**PUBLIC 568
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BOWLES	OTP-AM MAJ	H-683
DAVIS P	OTP-AM MIN	

Current law prohibits the photocopying of a driver's license without the permission of the Secretary of State. LD 1802 proposed to allow the photocopying of a driver's license when done for proof of identification during the consummation of a major financial transaction, as determined by the Secretary of State through rulemaking.

Committee Amendment "A" (H-683) replaced the bill and is the majority report of the committee. The amendment proposed to authorize a person to make a photocopy of a driver's license without the written consent of the Secretary of State if the photocopy is made solely for identification purposes to consummate a financial transaction, for verification that a commercial driver's license has been issued or for motor vehicle loaner and demonstration purposes. The amendment also proposed to restrict the further disclosure of the photocopy unless permitted by another applicable law.

The amendment added an emergency preamble and emergency clause.

Committee Amendment "B" (H-684) replaced the bill and is the minority report of the committee. The amendment proposed to authorize a person to make a photocopy of a driver's license without the written consent of the Secretary of State if the person obtains the written consent of the holder of the driver's license. The amendment also proposed to restrict the further disclosure of the photocopy or electronic file unless permitted by another applicable law.

The amendment added an emergency preamble and emergency clause. Committee Amendment "B" was not adopted.

House Amendment "A" to Committee Amendment "A" (H-707) proposed to limit the exemption of the requirement that the Secretary of State consent in writing to the photocopying of a driver's license to instances when the photocopy is being made solely for identification purposes to consummate a financial transaction with a financial services entity regulated pursuant to the Maine Revised Statutes, Title 9-A, the Maine Consumer Credit Code, or Title 9-B, which concerns financial institutions. This amendment also proposed to clarify that any reproduction of a driver's license or certificate of registration permitted under that subsection of law must be kept secure and may not be published or reproduced. House Amendment "A" to Committee Amendment "A" was not adopted.

House Amendment "B" to Committee Amendment "A" (H-726) proposed to limit the exemption of the requirement that the Secretary of State consent in writing to the photocopying of a driver's license to instances when the photocopy is being made solely for identification purposes to consummate a financial transaction with a financial services entity or its subsidiary regulated pursuant to the Maine Revised Statutes, Title 9-A, the Maine Consumer Credit Code, or Title 9-B, which concerns financial institutions. This amendment also proposed to clarify that any reproduction of a driver's license or certificate of registration permitted under that subsection of law

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must be kept secure and may not be published or reproduced. House Amendment "B" to Committee Amendment "A" was not adopted.

House Amendment "C" to Committee Amendment "A" (H-736) proposed to provide that a person who makes a photocopy of a driver's license without the written consent of the Secretary of State does not commit a crime. The amendment also requires that, beginning in 2006, all driver's licenses must contain a warning related to disclosure of personal information displayed on a license. House Amendment "C" to Committee Amendment "A" was not adopted.

House Amendment "D" to Committee Amendment "A" (H-747) proposed to limit the exemption of the requirement that the Secretary of State consent in writing to the photocopying of a driver's license to instances when the photocopy is being made solely for identification purposes to consummate a financial transaction with a financial services entity or its subsidiary regulated pursuant to the Maine Revised Statutes, Title 9-A, the Maine Consumer Credit Code, or Title 9-B, which concerns financial institutions. This amendment also proposed to clarify that any reproduction of a driver's license or certificate of registration permitted under that subsection of law must be kept secure and may not be published or reproduced. House Amendment "D" to Committee Amendment "A" was not adopted.

Enacted Law Summary

Public Law 2003, chapter 568 authorizes a person to make a photocopy of a driver's license without the written consent of the Secretary of State if the photocopy is made solely for identification purposes to consummate a financial transaction, for verification that a commercial driver's license has been issued or for motor vehicle loaner and demonstration purposes. The law also restricts the further disclosure of the photocopy unless permitted by another applicable law.

Public Law 2003, chapter 568 was enacted as an emergency measure effective March 24, 2004.

LD 1853

An Act To Amend the Laws Relating to Property and Casualty Insurance and To Authorize the Superintendent of Insurance To Establish a Mandatory Market Assistance Program

PUBLIC 671

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT PERRY A	OTP-AM	H-908 O'NEIL S-489

LD 1853 proposed to prohibit an insurer from canceling or refusing to issue or renew a property insurance policy subject to the Maine Revised Statutes, Title 24-A, chapter 41, subchapter 5, the so-called "Maine Property Insurance Cancellation Control Act," solely on the basis of the age of the dwelling. The bill proposed to prohibit an insurer from declining to insure a property subject to the Maine Property Insurance Cancellation Control Act on the basis that a previous owner of the property submitted claims for losses to the property. The bill proposed to prohibit insurers from increasing the stated value of a property insured under a policy governed by the Maine Property Insurance Cancellation Control Act at any time other than at renewal. The bill also proposed to require insurers to provide notice to the named insured explaining the reason for any increase in premium associated with an increase in stated value and disclose how an insured may obtain additional information that led to the increase in value. The bill would require an insurer to provide advance notice of needed property repairs to a policyholder and

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to allow for a reasonable time for the policyholder to complete the repairs before issuing a nonrenewal notice based on lack of necessary repairs for a property insurance policy subject to the Maine Property Insurance Cancellation Control Act. Finally, the bill proposed to amend the hearing section of the Maine Property Insurance Cancellation Control Act to clarify the proof required by an insurer to establish that its reason to nonrenew a policy is a good faith reason and rationally related to the insurability of the property.

Committee Amendment "A" (S-489) replaced the bill and changed the title.

Part A of the amendment proposed to do the following.

1. It removes the authority for the Superintendent of Insurance to delay the effective date of property and casualty insurance rate filings made electronically and requires the superintendent to approve or disapprove policy form filings made electronically for lines of insurance other than life, health and annuity.
2. It clarifies the current law that permits the cancellation of homeowner's insurance on the basis of fraud or material misrepresentation by the named insured or the insured's representative.
3. It adds new grounds for the cancellation of property insurance subject to the "Maine Property Insurance Cancellation Control Act," the Maine Revised Statutes, Title 24-A, chapter 41, subchapter 5, including the presence of a trampoline, the presence of a swimming pool not properly fenced in, a loss occasioned by a dog bite and the fact that a property is vacant without adequate custodial care.
4. It requires insurers to provide at least 90 days' notice to the named insured to comply with reasonable loss control recommendations before a cancellation notice or notice of nonrenewal may be issued.
5. It amends the hearing section of the Maine Property Insurance Cancellation Control Act to clarify that an insurer must provide proof or evidence that its reason for nonrenewal of a policy is a good faith reason and rationally related to the insurability of the property if the reason for nonrenewal is not based on a statutorily permissible ground for cancellation. The amendment also clarifies that a statement from the insurer that a risk does not meet the insurer's underwriting guidelines alone is not considered sufficient proof or evidence of its reason for nonrenewal in a hearing before the Superintendent of Insurance.
6. It prohibits an insurer from canceling or refusing to issue or renew a property insurance policy solely on the basis of the age of the dwelling.
7. It prohibits an insurer from declining to insure a property on the basis that a previous owner of the property submitted claims for losses to the property.
8. It prohibits insurers from increasing the stated value of a property insured under a policy governed by the Maine Property Insurance Cancellation Control Act at any time other than at renewal. The amendment also requires insurers to provide notice to the named insured explaining the reason for any increase in premium associated with an increase in stated value and disclosing how an insured may obtain additional information concerning the reasons for the increase in the stated value. The amendment also clarifies that this provision does not apply to routinely scheduled increases in valuation or to increases in stated value agreed to by the insured.
9. It makes technical changes to the laws governing workers' compensation group self-insurance reinsurance accounts related to the legal and tax status of the account.

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Part B of the amendment proposed to authorize the Superintendent of Insurance to establish a mandatory property and casualty insurance market assistance program to provide basic property and casualty insurance to underserved areas or risk types in Maine. Prior to establishing the program, the superintendent must establish a voluntary market assistance plan pursuant to the Maine Revised Statutes, Title 24-A, section 2325-A and find that either the number of insurers participating in the voluntary market assistance plan is insufficient or that a sufficient number of risks has not been written through the voluntary market assistance plan. If a mandatory program is established, any insurer authorized to write basic property and casualty insurance and actually writing such insurance in Maine must cooperate in organizing the program and remain a member of the program as long as that insurer has net direct premiums on basic property and casualty insurance in Maine. The amendment authorizes the superintendent to appoint a governing committee to oversee the program and to develop a plan of operation subject to the approval of the superintendent. It also authorizes the superintendent to adopt rules to implement the requirements of the program, including the designation of underserved areas or risk types, the creation of reasonable limitations on underwriting guidelines and rates for insurance written through the program and provisions to govern the suspension or termination of the program.

House Amendment "A" to Committee Amendment "A" (H-908) proposed to clarify legislative intent in response to a decision of the Law Court, York Ins. Co. of Maine, Inc. v. Supt. of Ins., 2004 ME 45, April 7, 2004. Under the provisions of the Maine Property Insurance Cancellation Control Act, current law, as reflected in Committee Amendment "A," requires that an insurer base its decision to nonrenew an insurance policy subject to the Act on one or more good faith reasons "rationally related" to the insurability of the property. In the recent decision, York Ins. Co. of Maine, Inc. v. Supt. of Ins., 2004 ME 45, April 7, 2004, the Law Court interpreted the term "rationally related" in discussing what standard should be applied to determine whether an insurance company has met its burden of proof to establish that its decision to nonrenew a homeowner's insurance policy was rationally related to the insurability of the property. In the York decision, the Law Court concluded that the Legislature intended "rationally related" to mean that the insurance company need only prove "a reasonably conceivable state of facts that could provide a rational basis" for the company's nonrenewal decision.

House Amendment "A" to Committee Amendment "A" (H-908) proposed to strike the word "rationally" to clarify legislative intent that a reason for nonrenewal must be related to the insurability of the property. The purpose of this amendment is to clarify the appropriate standard to apply in determining whether an insurance company's decision to nonrenew a homeowner's insurance policy complies with the law. The change in language is intended to maintain the Bureau of Insurance's ability to exercise its statutory authority in hearings to determine when an insurance company has established the existence of proof or evidence for its reason for nonrenewal. Without the amendment, the recent York decision may be construed to provide insurers with a lower standard upon which to establish their burden of proof for nonrenewal decisions.

The amendment is not intended to affect the application of the remainder of the Law Court's analysis in York, including its conclusion that an insurance company's decision not to renew a homeowner's insurance policy is not per se irrational because it was not supported by empirical data.

Enacted Law Summary

Public Law 2003, chapter 671 amends the laws relating to property and casualty insurance.

Part A of the law does the following.

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1. It requires the Superintendent of Insurance to act on property and casualty insurance rate filings made electronically within 30 days and to approve or disapprove policy form filings made electronically within 30 days for lines of insurance other than life or health insurance or annuity products.
2. It clarifies the current law that permits the cancellation of homeowner's insurance on the basis of fraud or material misrepresentation by the named insured or the insured's representative.
3. It adds new grounds for the cancellation of homeowner's insurance, including the presence of a trampoline, the presence of a swimming pool not properly fenced in, a loss occasioned by a dog bite and the fact that a property is vacant without adequate custodial care.
4. It requires insurers to provide at least 90 days' notice to the named insured to comply with reasonable loss control recommendations before a cancellation notice or notice of nonremoval may be issued.
5. It amends the hearing section of the Maine Property Insurance Cancellation and Control Act to clarify legislative intent that a reason for nonrenewal must be related to the insurability of the property. The law strikes the word "rationally" in response to a recent Law Court decision, *York Ins. Co. of Maine, Inc. v. Supt. of Ins.*, 2004 ME 45 (April 7, 2004) to clarify the appropriate standard to apply in determining whether an insurance company's decision to nonrenew a homeowners insurance is a good faith reason and related to the insurability of the property if the reason for nonrenewal is not a statutorily permissible ground for cancellation. The law also clarifies that a statement from the insurer that a risk does not meet the insurer's underwriting guidelines alone is not considered proof or evidence of its reason for nonrenewal in a hearing before the Superintendent of Insurance.
6. It prohibits an insurer from canceling or refusing to issue or renew a property insurance policy solely on the basis of the age of a dwelling.
7. It prohibits an insurer from declining to insure a property on the basis that a previous owner of the property submitted claims for losses to the property.
8. It prohibits insurers from increasing the stated value of a property at any time other than renewal. At least 30 days before the renewal date of the policy, the law requires that insurers provide notice to the insured explaining the reason for any increase in premium associated with an increase in stated value and disclose how an insured may obtain additional information concerning the reasons for the increase in stated value.
9. It makes technical changes to the laws governing worker's compensation group self-insurance reinsurance accounts related to the legal and tax status of the account.

Part B of Public Law 2003, chapter 671 authorizes the Superintendent of Insurance to establish a mandatory property and casualty insurance market assistance program to provide basic property and casualty insurance to underserved areas or risk types in the State. Prior to establishing the program, the Superintendent must establish a voluntary market assistance plan pursuant to law and find that either the number of insurers participating in the voluntary market assistance plan is insufficient or that a sufficient number of risks has not been written through the voluntary market assistance plan. If a mandatory program is established, any insurer authorized and actually writing basic property and casualty insurance in the State must participate as a member of the program.

Joint Standing Committee on Insurance and Financial Services

LD 1854	An Act To Conform to Federal Law Regarding Electronically Printed Credit and Debit Card Receipts and To Delay Enforcement of Civil Penalties	PUBLIC 586 EMERGENCY
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<u>Sponsor(s)</u> DAVIS P O'BRIEN J	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-420
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LD 1854 proposed to delay for one year the implementation of the law that prohibits businesses from printing more than the last 5 numbers of a credit card or debit card account on an electronically produced receipt.

Committee Amendment "A" (S-420) replaced the bill and changed the title. The amendment proposed to bring current law into conformity with recent changes made to the federal Fair Credit Reporting Act to prevent inconsistency between state and federal law. The amendment also proposed to delay any assessment of civil penalties for a person who is not in compliance with the law until January 1, 2005.

Enacted Law Summary

Public Law 2003, chapter 586 brings current law into conformity with recent changes made to the federal Fair Credit Reporting Act regarding the prohibition on printing more than the last 5 numbers of a credit card or debit card and on printing the account's expiration date. The law also delays any assessment of civil penalties for a person who is not in compliance with the law until January 1, 2005.

Public Law 2003, chapter 586 was enacted as an emergency measure effective March 30, 2004.

LD 1859	Resolve, Regarding Legislative Review of Portions of Chapter 850: Health Plan Accountability, a Major Substantive Rule of the Bureau of Insurance	RESOLVE 120 EMERGENCY
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<u>Sponsor(s)</u>	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 1859, a resolve, proposed to provide for legislative review of portions of Chapter 850: Health Plan Accountability, a major substantive rule of the Bureau of Insurance.

Enacted Law Summary

Resolve 2003, chapter 120 authorizes final adoption of portions of Chapter 850: Health Plan Accountability, a major substantive rule of the Department of Professional and Financial Regulation, Bureau of Insurance.

Resolve 2003, chapter 120 was enacted as an emergency measure effective April 6, 2004.

Joint Standing Committee on Insurance and Financial Services

LD 1865

Resolve, Regarding Legislative Review of Chapter 755: Health Insurance Classifications, Disclosure and Minimum Standards, a Major Substantive Rule of the Department of Professional and Financial Regulation, Bureau of Insurance

**RESOLVE 131
EMERGENCY**

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-797

LD 1865, a resolve, proposed to provide for legislative review of Chapter 755: Health Insurance Classifications, Disclosure and Minimum Standards, a major substantive rule of the Department of Professional and Financial Regulation, Bureau of Insurance.

Committee Amendment "A" (H-797) proposed to authorize final adoption of Chapter 755: Health Insurance Classifications, Disclosure and Minimum Standards, a Major Substantive Rule of the Department of Professional and Financial Regulation, Bureau of Insurance provided that these specified changes are made.

1. With regard to the definition of preexisting condition exclusion, the look-back period is changed from 12 months to 24 months.
2. With regard to prohibited policy provisions, language is added to clarify that the section is not intended to restrict the use of elimination periods for disability income benefits.
3. With regard to minimum standards for health insurance benefits generally, language is added to permit an insurer to void or contest a policy or deny claims for a sickness first manifested before the effective date of the policy that was fraudulently not disclosed or fraudulently misrepresented in an application for coverage.
4. With regard to minimum standards for health insurance benefits generally, the maximum time period between the date of an accident and the date of loss is shortened from 180 days to 90 days for accidental death and dismemberment benefits and from 90 days to 30 days for disability coverage.
5. With regard to minimum standards for individual disability income protection coverage, the maximum elimination period is changed from 365 days to 730 days in cases of coverage having a benefit period of more than 2 years, and the shortest permissible maximum benefit period is changed from 6 months to 3 months.
6. With regard to specified disease coverage, language is added to provide an exception for lump-sum benefits based on diagnosis of a specified disease.
7. With regard to specified disease coverage, language is added to permit the Superintendent of Insurance to approve different minimum benefits for cancer coverage on an expense-incurred basis or a per diem indemnity basis if the superintendent determines that the minimum benefits are in the interest of the consumer.

The amendment also changed the title of the resolve and clarified the language to reflect that all of Chapter 755 required legislative review.

Joint Standing Committee on Insurance and Financial Services

Enacted Law Summary

Resolve 2003, chapter 131 provides for legislative approval of Chapter 755: Health Insurance Classifications, Disclosure and Minimum Standards, a major substantive rule of the Department of Professional and Financial Regulation, Bureau of Insurance.

The resolve authorizes final adoption of the rule provided that these specified changes are made.

1. With regard to the definition of preexisting condition exclusion, the look-back period is changed from 12 months to 24 months.
2. With regard to prohibited policy provisions, language is added to clarify that the section is not intended to restrict the use of elimination periods for disability income benefits.
3. With regard to minimum standards for health insurance benefits generally, language is added to permit an insurer to void or contest a policy or deny claims for a sickness first manifested before the effective date of the policy that was fraudulently not disclosed or fraudulently misrepresented in an application for coverage.
4. With regard to minimum standards for health insurance benefits generally, the maximum time period between the date of an accident and the date of loss is shortened from 180 days to 90 days for accidental death and dismemberment benefits and from 90 days to 30 days for disability coverage.
5. With regard to minimum standards for individual disability income protection coverage, the maximum elimination period is changed from 365 days to 730 days in cases of coverage having a benefit period of more than 2 years, and the shortest permissible maximum benefit period is changed from 6 months to 3 months.
6. With regard to specified disease coverage, language is added to provide an exception for lump-sum benefits based on diagnosis of a specified disease.
7. With regard to specified disease coverage, language is added to permit the Superintendent of Insurance to approve different minimum benefits for cancer coverage on an expense-incurred basis or a per diem indemnity basis if the superintendent determines that the minimum benefits are in the interest of the consumer.

Resolve 2003, chapter 131 was enacted as an emergency measure effective April 14, 2004.

LD 1898

An Act To Prohibit Financial Institutions from Requiring a Fingerprint or Thumbprint To Complete a Transaction

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TWOMEY	ONTP MAJ OTP MIN	

LD 1898 proposed to prohibit a financial institution or check cashing business from requiring a person presenting a check for cash to be fingerprinted or thumbprinted.

Joint Standing Committee on Insurance and Financial Services

LD 1907

An Act To Govern and Regulate Life Settlements

PUBLIC 636

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'NEIL MAYO	OTP-AM	H-796 H-849 O'NEIL

LD 1907 was submitted pursuant to Public Law 2003, chapter 320, which directed the Superintendent of Insurance to convene a working group to review current law on viatical settlement contracts and to submit recommended legislation to specifically permit life settlement contracts and to make any other necessary changes to the laws regulating viatical settlement contracts. Maine law currently permits the use of viatical settlements but does not permit life settlements. While both settlements involve the sale of a life insurance policy or certificate for consideration, viatical settlements may be entered into only when the insured is either chronically or terminally ill, whereas, under a life settlement contract, these criteria need not be present. LD 1907 proposed to amend Maine's current law on viatical settlement contracts to expressly permit life settlement contracts in accordance with requirements similar to those applicable to viatical settlements. The bill also makes other technical changes consistent with the most recently adopted National Association of Insurance Commissioners Viatical Settlements Model Act.

Committee Amendment "A" (H-796) proposed to make the following changes to the bill.

1. It deletes language referring to an award of attorney's fees and costs to a prevailing party in a tort action arising out of activities related to the regulation of viatical or life settlements.
2. It makes a change to the definition of settlement provider to correct a reference to supervised lenders and to delete a reference to a settlement purchaser.
3. It corrects 2 inadvertent references to a viatical settlement.
4. It requires the Bureau of Insurance to submit a report by February 1, 2006 to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters on the market conditions for life settlements and any problems related to the regulation of life settlements.

House Amendment "A" (H-849) proposed to clarify that the Viatical Settlements Act does not preempt the regulatory requirements in the Revised Maine Securities Act.

Enacted Law Summary

Maine law currently permits the use of viatical settlements but does not permit life settlements. While both settlements involve the sale of a life insurance policy or certificate for consideration, viatical settlements may be entered into only when the insured is either chronically or terminally ill, whereas, under a life settlement contract, these criteria need not be present. Public Law 2003, chapter 636 amends Maine's current law on viatical settlement contracts to expressly permit life settlement contracts in accordance with requirements similar to those applicable to viatical settlements. The law also makes other statutory changes that are consistent with the most recently adopted National Association of Insurance Commissioners Viatical Settlements Model Act.

Joint Standing Committee on Insurance and Financial Services

LD 1910

**An Act To Implement the Recommendations of the Committee To
Study the Revenue Sources of the Office of Consumer Credit
Regulation**

PUBLIC 654

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
S-488

LD 1910 proposed to permit the Director of the Office of Consumer Credit Regulation within the Department of Professional and Financial Regulation to adjust the volume fee rate for creditors and lenders by regulation, subject to a rate cap at the current statutory levels. The bill also directed the Office of Consumer Credit Regulation to review the license and registration fees assessed by the office.

Committee Amendment "A" (S-488) proposed to add a provision to the bill to require that the volume fee for mortgage lenders be reduced by \$5 per \$100,000 of debt for the current year if the surplus in the dedicated fund balance for the Office of Consumer Credit Regulation as of October 1st of the preceding calendar year exceeded 125% of the office's annual budget for operating expenses.

The amendment also proposed to clarify that the recommendations of the Office of Consumer Credit Regulation regarding licensing and registration fees must be submitted to the Joint Standing Committee on Insurance and Financial Services and the Joint Standing Committee on Business, Research and Economic Development.

Enacted Law Summary

Public Law 2003, chapter 654 requires the Director of the Office of Consumer Credit Regulation within the Department of Professional and Financial Regulation to reduce the volume fee for mortgage lenders by \$5 per \$100,000 of debt for the current year if the surplus in the dedicated fund balance for the Office of Consumer Credit Regulation as of October 1st of the preceding calendar year exceeds 125% of the office's annual budget for operating expenses.

The law also directs the Office of Consumer Credit Regulation to review its licensing and registration fees and make recommendations to the Legislature by January 5, 2005 as to how to assess those fees in an equitable manner.

LD 1939

An Act To Decrease Insurance Fraud in This State

ONTP

Sponsor(s)
BUNKER
LAFOUNTAIN

Committee Report
ONTP

Amendments Adopted

Current law requires insurers to develop and implement an antifraud plan to prevent, detect and investigate all forms of insurance fraud. LD 1939 proposed to expand the antifraud provisions by: (1) establishing within the Department of Professional and Financial Regulation, Bureau of Insurance a new Insurance Fraud Investigative Unit, which must include 3 full-time staff members; (2) requiring insurers to create special investigative units within their companies, using fraud investigators, who may be employees of the insurers or independent

Joint Standing Committee on Insurance and Financial Services

contractors; and (3) implementing an assessment on insurers of up to 0.1% of direct premiums written in the State to fund the Insurance Fraud Investigative Unit.

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